IN THE HIGH COURT OF BOMBAY AT GOA

MISC.CIVIL APPLICATION NO. 704 OF 2007
IN
FIRST APPEAL NO. 235 OF 2006

SHRI SHAMBA K. GAONKAR, BICHOLIM GOA. ... Applicant

Versus

MISS MAMTA NANDA NAIK AND 4 ORS., ... Respondents

Mr. Amrut Kansar, Advocate for the applicant.
Mr. V.Palekar, Advocate for the respondents No. 1 to 3.
Mr. E. Afonso, Advocate for the respondent No.5.

Coram:- R. S. MOHITE, J.

Date:- 21st September, 2007

P.C.

This is an application made by the owner of the vehicle seeking stay of the execution filed by the Insurance company. After the award was passed on 6.5.2006 the Insurance company paid up the amount due to the claimants. It appears that though this first appeal was filed by the original owner on 7.8.2006, there was no stay sought of the decree. As consequent claimants have withdrawn the amount which was deposited in the Court by the Insurance company. In my view, applicant having been failed to make an application, cannot seek stay of the only execution of decree. Application is therefore, disposed off. However, after the amount is recovered by the Insurance company there will be liberty to make an application in this Court for seeking security from the claimants for return of the money in case appeal succeeds, notwithstanding that the amount has been withdrawn.

R. S. MOHITE, J.

SMA